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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 64 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

MALLIKA SARABHAI

Appearance:

1. WEALTH TAX REFERENCE No. 64 of 1987

MR BB NAIK with MR MANISH R BHATT for Petitioner

MR MK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 23/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income-tax Appellate Tribunal has raised the following question for the opinion of this Court at the instance of the revenue :-

"Whether, in law and on facts the valuation of assessee's reversionary interest in Mridula Sarabhai Trust No. 4 is required to be made on the basis of the directions given by Commissioner of Wealth-tax (Appeals) and confirmed by the Appellate Tribunal ?"

2. For assessment year 1972-73, the valuation of reversionary interest of the assessee in Mridula Sarabhai Trust No. 4 was challenged by the assessee before the Commissioner of Wealth-tax (Appeals). The Commissioner directed the Wealth-tax Officer to revalue the assessee's interest on the basis of his order in case of one Dr Anand Sarabhai for the assessment year 1970-71. In the aforesaid appellate order in case of Dr Anand Sarabhai the basis adopted was the principles laid down by the appellate authority for assessment years 1963-64 to 1968-69.

3. At the time of hearing before the Tribunal, it was pointed out from the facts on record that in the said case of Dr Anand Sarabhai though the revenue had preferred an appeal before the Tribunal on various other issues, the direction regarding revaluation of reversionary interest had not been challenged. That is to say, the decision of the appellate authority on this issue had been accepted by the department. The Tribunal, therefore, confirmed the order of the Commissioner of Wealth-tax (Appeals) in case of the assessee. It is in the aforesaid circumstances that the revenue is in reference against the order of the Tribunal.

4. We have heard Mr BB Naik, learned standing counsel for the revenue and Mr MK Patel, learned advocate for the assessee. We do not find any reason to interfere with the order of the Tribunal as there is no error in the approach adopted by the Tribunal. The Tribunal has taken note of the fact that in the case of another assessee belonging to the same group the revenue has accepted in principle the directions issued by the appellate authority for revaluing the reversionary interest held by an assessee in such a private trust.

5. The question referred to us is, therefore, answered in the affirmative i.e. in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no orders as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-